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DIGITAL ENVIRONMENT AS AN INTEGRATIVE BEGINNING OF THE DEVELOPMENT OF DOCUMENTAL APPROACHES TO THE POSTULATION OF THE LEGAL STATUS OF THE PERSON

Abstract. The article is devoted to the study of key approaches to adequately determining the legal status of an individual, dictated by the nature of the digital transformation process. It examines the influence of the digital transformation process on the nature of postulating the legal status of an individual. This study is based on the works of S. S. Alekseev, A. K. Zharova, I. M. Rassolov, G. L. A. Hart and other authors.

Keywords: law, digital technologies, legal status of a person, telecommunications, internet, network, information and communication technologies

ЦИФРОВАЯ СРЕДА КАК ИНТЕГРАТИВНОЕ НАЧАЛО ВЫРАБОТКИ ДОКТРИНАЛЬНЫХ ПОДХОДОВ К ПОСТУЛИРОВАНИЮ ПРАВОВОГО СТАТУСА ЛИЧНОСТИ

Аннотация. Статья посвящается изучению ключевых подходов к адекватному определению правового статуса личности, продиктованных характером процесса цифровой трансформации. Проводится исследование влияния процесса цифровой трансформации на характер постулирования правового статуса личности. В основу данного исследования положены работы С. С. Алексеева, А. К. Жаровой, И. М. Рассолова, Г. Л. А. Харта и других авторов.

Ключевые слова: право, цифровые технологии, правовой статус личности, телекоммуникации, Интернет, сеть, информационно-коммуникационные технологии

Introduction. The category of “constitutional and legal status” is one of the most controversial categories in modern domestic jurisprudence, since due to changing conditions, it is simply impossible to form a unified approach to the definition. At the same

time, the category of “constitutional and legal status” is a key category in the domestic theory of modern law, in which all the main achievements of legal science and its accompanying practice are concentrated.

In the process of determining individual and collective rights and freedoms, the established constitutional and legal status makes it possible to achieve the optimal level of legal regulation, which determines the range of lawful actions of subjects of law in the field of adequate implementation of social relations.

It also becomes necessary to complete and timely legal assessment of the consequences of the implementation of this organic set of social relations, which, thanks to the concept of an internal point of view belonging to G.L.A. Hart, is determined by the nature of the relations of subjects of law [1. P. 5].

The definition of the constitutional and legal status of an individual arises in the process of the emergence of social relations in a digital telecommunications environment, in direct proportion to the nature of the functioning of rights in it. The position of the constitutional and legal status of the individual in the doctrine of modern domestic law is determined by the leading role of the state, which is realized, first of all, in the field of establishing the rights and obligations of each individual.

Along with this, the issues of determining the constitutional and legal status of a person in a digital communications environment are resolved in the direction of the process of ensuring guarantees and fulfilling the competencies of each subject of such relations [2. P. 21].

The main part of the article

In this case, it is the totality of the properties of the modern digital communications environment that acts as a prerequisite for the effective implementation of the constitutional and legal status of the individual and the legal regulation of the telecommunications environment.

Based on the generalization of the definitions of the digital telecommunications environment, the following characteristics of it should be distinguished, which are important for the constitutional and legal status of the personality of the subject of public relations in it [3. P. 12].

In the global telecommunications network, which is a technological platform, the development of public relations takes place through the distribution of documentation based on program documents [4. P. 53].

At the same time, it should be noted that considering the digital communications environment as a special self-developing social structure can significantly update the process of using a wide range of modern sociological and philosophical studies by domestic and world legal science;

At the same time, the position of a system that has signs of autopoiesis on the basis that it reproduces all the elementary parts traditionally belonging to it becomes characteristic for the digital telecommunication environment.

It performs such manipulations with the help of an organic combination of similar elements, and thanks to this, it acquires the ability to distinguish itself from the external environment, which is most typical for the most massive Internet resources [5].

Such expressions of the digital telecommunications environment, according to currently widespread forecasts of its most likely direction of development, will consistently and progressively acquire global significance. Such expressions of the digital telecommunications environment, according to currently widespread forecasts of its most likely direction of development, will consistently and progressively acquire global significance.

In the future, this property can be extended to the entire space of the digital telecommunications environment, and be realized in it in the form of communication, implying the functioning of this environment as a social system [5. P. 7].

In principle, the property of autopoiesis is also realized in the form of life, and in the form of consciousness, characteristic, in this case, of initiative and responsible users of this digital branched telecommunication environment.

The law in this case becomes, in relation to the digital telecommunications environment, to a certain extent, the “external environment”, which the digital environment as a self-organizing system gradually begins to ignore.

This happens precisely because in the digital telecommunication environment, its own rules of regulation are formed, which are to a high degree determined by the own original mechanisms of this self-reproducing system. The question of the implementation of the constitutional and legal status of the individual in the digital communications environment acquires a fundamentally new sound due to the special influence of the properties of multiplying information.

It should be noted that the process of information multiplication in the digital communications environment seems impossible to stop the spread, otherwise the information system itself will be destroyed.

The influence of the principle of net neutrality, actively postulated within the digital telecommunications environment, is also undeniable, which implies that any information, regardless of its legal value, is considered equally important.

It is impossible not to mention the significant influence of the technological features of the digital telecommunications environment, in particular, the so-called “digital footprint” left by each user in it.

For the virtual space, the technological features of the digital communications environment are natural conditions, due to which they entail the question of the realization of natural human rights in a digital environment.

At the same time, jurists are faced with the following dilemma: should the regulatory norms that have already been formed within the digital telecommunications environment, which has the properties of an autopoietic system, be legalized?

Under this condition, additional guarantees should be provided to all participants in the digital telecommunications environment, without exception, otherwise the rules should be introduced in the traditional way, which can lead to a double risk.

Firstly, this is the risk of violating the digital communications environment itself, and secondly, which is no less, if not more important, the risk of an inevitable decrease in the authority of law due to an attempt to violate internal system rights.

Let us assume that the existence of a digital communications environment is taken into account as a system that is built on a contractual basis, as a result of which the

distribution of domain names and the corresponding connection to the Internet telecommunications network was made.

In this case, at the same time, one should also assume the existence of strong private legal mechanisms within the digital telecommunications environment, whose activities are aimed at regulating social processes. However, in the conditions of Russia and many foreign countries, it is administrative and legal means that have a serious impact on the digital environment.

In addition, the dependence of subjects of natural law on the terms of user and similar agreements that are not in essence contracts of accession cannot be overlooked, since they cannot be subject to any adjustment in accordance with the interests of any parties joining this agreement [6. P. 179].

S. S. Alekseev identifies such elements of the constitutional and legal status of the individual as legal personality, basic rights and obligations of subjects. In turn, the researcher attributes to the elements of the legal status of the individual the specific rights and obligations of the person, which are directly related to the presence of certain legal facts [7. P. 142].

Conclusion. Doctrinal approaches, which are currently being implemented in relation to the legal status of the personality of a citizen of the Russian Federation, in the digital environment require sufficient improvement in relation to the existence of a modern subject, which is traditionally called upon to act in a telecommunications environment.

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